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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	No. CR 05-00756 PJH
	)	
Plaintiff,	)	PARTIES' STIPULATION AND
	)	<del>PROPOSED</del> ORDER CONTINUING
v.	)	STATUS CONFERENCE AND
	)	EXCLUDING TIME UNDER THE
ROSALYN TILLERY,	)	SPEEDY TRIAL ACT
	)	
Defendant.	)	
_____	)	Honorable Phyllis J. Hamilton

The parties stipulate and agree, and the Court finds and holds, as follows:

1. The parties appeared on the instant matter on January 25, 2006 before the Honorable Phyllis J. Hamilton.

2. At the January 25, 2006 appearance, David Cohen, counsel for the defendant, indicated that he anticipates having two trials that will make him unavailable for a period of 8 weeks, and requested that the trial be continued until May 1, 2006. He also requested that the time period from January 25, 2006 until May 1, 2006 be excluded from the calculation of time under the Speedy Trial Act for continuity of counsel and effective preparation of counsel. The government did not object.

3. In light of the foregoing facts, the failure to grant the requested exclusion would

unreasonably deny counsel for the defense the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(A), (B)(iv). The ends of justice would be served by the Court excluding the proposed time period. These ends outweigh the best interest of the public and the defendant in a speedy trial. See id. § 3161(h)(8)(A).

4. Given the uncertainty about whether Mr. Cohen's two other matters will go to trial, however, the Court instructed Mr. Cohen at the January 25, 2006 appearance to contact the Court on February 13, 2006 to advise the Court as to whether his first trial is going forward. If it is, the Court's clerk will set a status conference when Mr. Cohen is available. If it is not, the Court will hold a status conference in this matter on February 15, 2006 at 2:30 p.m. to set further proceedings and to determine the appropriate length of time, if any, to be excluded under the Speedy Trial Act.

SO STIPULATED.

DATED: 1/26/06

KEVIN V. RYAN  
United States Attorney

/s/  
MICHELLE MORGAN-KELLY  
Assistant United States Attorney

DATED: 1/26/06

/s/  
DAVID COHEN  
Counsel for Defendant Rosalyn Tillery

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 1/27/06

  
HON. PHYLLIS J. HAMILTON  
United States District Court Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the office of the United States Attorney, Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of

**PARTIES' STIPULATION AND [PROPOSED] ORDER CONTINUING STATUS  
CONFERENCE AND EXCLUDING TIME UNDER THE SPEEDY TRIAL ACT**

in the case of UNITED STATES V. ROSALYN TILLERY, CR 05-00756 PJH to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

**David Cohen, Esq.  
Cohen & Paik  
177 Post Street, suite 600  
San Francisco, CA 94108  
Fax No: 415-398-7500**

\_\_\_\_ (By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

  x   (By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

\_\_\_\_ (By Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

\_\_\_\_ (By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 26, 2006

\_\_\_\_\_  
/s/  
RAWATY YIM  
United States Attorney's Office